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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/814,003	03/31/2004	James Caron	CPEQ 2 00008	6060
7590 02/07/2005			EXAMINER	
Patrick D. Floyd, Esq. Fay, Sharpe, Fagan, Minnich & McKee, LLP Seventh Floor 1100 Superior Avenue Cleveland, OH 44114-2518			FERGUSON, MARISSA L	
			ART UNIT	PAPER NUMBER
			2854	
DATE MAILED: 02/07/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

CA

Office Action Summary	Application No. 10/814,003	Applicant(s) CARON, JAMES	
	Examiner Marissa L Ferguson	Art Unit 2854	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-41 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5,8,11,13,14,23,27-31,34 and 39 are rejected under 35 U.S.C. 102(b) as being anticipated by Schutz (US Patent 4,361,085).

Regarding claims 1,11 and 27, Schutz teaches a method and system comprising a press (Figure 1) having press members (11,13) for creating forces for pressing the media (W) against the embossing template (23) and an elastomeric embossing pad (17) disposed between the media (W) and the press (Figure 1) which deforms during pressing to spread the press forces over the embossing template and reduces pressure during pressing.

Regarding claims 2,3,13,14,28 and 29, Schutz teaches a method and system comprising an embossing pad with a Shore hardness from about A20 to A80 (Abstract).

Regarding claims 4,5,8,30,31 and 34, Schutz teaches the claimed invention with the exception of a method of selecting hardness and system with an elastomeric embossing pad formed of rubber, synthetic and polymer.

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Regarding claims 23 and 39, Schutz teaches the claimed method and invention including an embossing template that is not a die and wherein the press is a roller press (Figure 1).

Claims 1-3,10-14,21,22,24,25,27,36,37,40 and 41 are rejected under 35 U.S.C. 102(b) as being anticipated by Bradley et al. (US Patent 4,867,057).

Regarding claims 1,11,12,27 and 41, Bradley teaches a method and system comprising a press (28) having press members (see figure below) for creating forces for pressing the media (44) against the embossing template (20') and an elastomeric embossing pad (24) disposed between the media (44) and the press (Figures 10 and 11) which deforms during pressing to spread the press forces over the embossing template and reduces pressure during pressing.

Regarding claim 10, Bradley teaches a method and system comprising an embossing pad (24) comprising first and second surfaces disposed opposite each other for placement between a press member (28) and the embossing template (20,20').

Regarding claims 21 and 22, Bradley teaches a method wherein the embossing template is an embellishing and/or embossing die (20,20').

Regarding claims 24,25,36 and 37, Bradley teaches a method and system comprising a rigid platen plate (Column 8, Lines 3-10) with first and second portions (Figures 9 and 10) for pressing with the media (40), the embossing template (20,20') and the elastomeric pad (24) therebetween (Figures 9 and 10).

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Regarding claim 40, Bradley teaches a press (28) that is not a roller press.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 4-9,15-20,26,30-35 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over unpatentable over Bradley et al. (US Patent 4,867,057) in view of Smith et al. (US Publication 2001/0000860).

Regarding claims 4,5,7-9,15-20,30,31 and 33-35, Bradley et al. teaches the claimed invention with the exception of a method of selecting hardness and system with an elastomeric embossing pad formed of rubber, synthetic, silicone, polymer and urethane. Smith et al. teaches an embossing device with a method of selecting hardness and an embossing pad formed of rubber, synthetic, silicone, polymer and urethane (Page 2, Paragraph 0023). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the invention as taught by Bradley et al. to replace the embossing pad thereof, with an embossing pad formed of rubber, synthetic, silicone, polymer and urethane as taught by Smith et al., since Smith et al. teaches it is advantageous to exhibit favorable properties in order to maximize resiliency of the pad.

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Bradley et al. teaches all that is claimed except for an embossing pad that is formed of vinyl and platen plate assembly formed of high-density polyethylene. Smith et al. teaches an embossing pad that can be made of such materials as rubber, synthetic, silicone, etc. However, Bradley et al. and Smith et al. do not teach the claimed vinyl embossing pad. It has been held to be within the general skill of a worker in the art to select a known material on the basis of suitability for intended use of making an embossing pad and a platen plate assembly. It would have been obvious to select a vinyl since such a modification would result in an embossing pad with a higher or a lower hardness to increase/decrease the spread of forces. Further, it would have been obvious to select a high-density polyethylene since such a modification would result in a cutting surface that is not easily dulled.

4. Claims 23 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over unpatentable over Bradley et al. (US Patent 4,867,057) in view of Schutz (US Patent 4,361,085).

Bradley et al. teaches the claimed method and invention with the exception of an embossing template that is not a die and wherein the press is a roller press. Schutz teaches an embossing apparatus with an embossing template roller (11) and a press roller (13). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the invention as taught by Bradley et al. to replace the embossing die and a press thereof, with an embossing roller and roller press as taught by Schutz,

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since Schutz teaches that it is advantageous to provide high quality embossing definition on a web.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marissa L Ferguson whose telephone number is (571) 272-2163. The examiner can normally be reached on (M-T) 6:30am-4:00pm and every other(F) 7:30am-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Hirshfeld can be reached on (571) 272-2168. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Marissa L Ferguson
Examiner
Art Unit 2854



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